IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 428 OF 2007

The Kunbi Sahakari Bank Ltd., Mumbai. ...Petitioner
V/s.
State of Maharashtra & Ors. ...Respondents

Mr.P.V. Dhopatkar for the Petitioner.
Ms.Mamta Sadh, AGP for Respondent Nos.1 and 2.

CORAM : V.M. KANADE, J.

DATED : APRIL 11, 2007

P.C. :-

1. Heard the learned Counsel for the petitioner and the learned AGP for respondent nos.1 and 2.

2. By this petition, the petitioner is seeking a writ of mandamus directing the respondent no.1 to take steps to transfer the Recovery Certificates dated 23.5.2003 and 25.5.2003 to the 3rd respondent i.e. The Chief Secretary, State of Tamil Nadu, for the purpose of taking appropriate steps to recover the amount which is due and payable to the petitioner Bank by the respondent nos.7 to 9. It is prayed that this amount may be recovered as arrears of land revenue.

3. The petitioner obtained two Recovery Certificates under Section 101 of the Maharashtra Co-operative Societies Act against 7th, 8th and 9th respondents. However, the 2nd respondent who has been appointed to take steps for the recovery of the said amount could not execute the said certificates since the respondent nos.7, 8 and 9 are presently residing in the State of Tamil Nadu and therefore, a suitable direction should be given by this Court directing the respondent no.3 to execute the said certificates.

4. In my view, it is not possible for this Court to issue such a writ.

5. Under the provision of MCS Act, 1960, once a certificate is issued under Section 101 of the said Act, the said certificate has to be executed in the manner provided under Rule 107 of the said Rules. One of the provision in the said Act lays down that the amount due can be recovered as arrears of land revenue. There is no specific provision under the MCS Act or Rules laying down any procedure for the purpose of executing such a

certificate which has been issued by the Registrar. However, there is a Central Act which is Revenue Recovery Act, 1890 which prescribes procedure for the recovery of arrears of land revenue which are payable to the collector. In my view, since there is no provision under the MCS Act, the petitioner is at liberty to take appropriate steps for the recovery of the said amount by making an appropriate application for the purpose of transfer of these certificates to the collector at the said district in Tamil Nadu. If the petitioner is aggrieved by any adverse order passed by the collector, he is at liberty to approach this court again for appropriate direction.

6. Under the circumstances, the writ petition is allowed to be withdrawn with liberty to the petitioner to take appropriate steps and thereafter if any adverse order is passed, to approach this Court again by filing a separate writ petition.

. Writ petition is disposed of in the above terms.

(V.M. Kanade, J.)